

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JAMES D. REED and DEBORAH REED,) CASE NO.
)
Plaintiffs,) JUDGE
)
vs.)
)
COLUMBIA GAS TRANSMISSION, LLC,) <u>DEFENDANT'S NOTICE OF REMOVAL</u>
)
Defendant.)

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant Columbia Gas Transmission, LLC (“Columbia”), by and through its undersigned counsel, hereby respectfully files and serves this Notice of Removal to remove this action from the Court of Common Pleas of Hocking County, Ohio to the United States District Court for the Southern District of Ohio, Eastern Division. The Court has subject matter jurisdiction under 28 U.S.C. § 1332. As grounds for this removal, Columbia states as follows:

NATURE OF THE ACTION

1. On or about April 28, 2022, Plaintiffs James D. Reed and Deborah Reed (“Plaintiffs”) filed a complaint against Columbia in the Court of Common Pleas of Hocking County, Ohio (“State Court”), styled *James D. Reed et al. v. Columbia Gas Transmission, LLC*, Case No. 22CV0050. *See generally* Complaint (attached hereto as **Exhibit A**).
2. The Complaint alleges causes of action for (1) Breach of Contract, (2) Diminution of Value of Real Property, (3) Conversion, (4) Ejectment from Real Property, (5) Damage to Real Property, and (6) Declaratory Judgment.

THE NOTICE OF REMOVAL IS TIMELY

3. The Clerk of the State Court attempted to mail, via Certified Mail, the Summons and a copy of the Complaint to Columbia's registered agent on April 28, 2022, August 8, 2022, and August 23, 2022.

4. Columbia was served via its registered agent on August 25, 2022.

5. Columbia has not answered or otherwise responded to the Complaint in State Court.

6. This Notice of Removal is timely filed with this Court within thirty (30) days after service of the Complaint and Summons on Defendants. *See 28 U.S.C. § 1446(b)(1); see also Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 345-46 (1999) (“[I]f the complaint is filed in court prior to any service, the removal period runs from the service of the summons.”); *Sutton v. Mountain High Invs., LLC*, No. 21-1346, 2022 WL 1090926, at *2 (6th Cir. Mar. 1, 2022) (“The thirty-day period does not begin to run until the defendant is formally served; ‘mere receipt’ is not sufficient.”), *petition for cert. docketed* (Aug. 4, 2022).

7. Pursuant to 28 U.S.C. § 1446(a), only the following process, pleadings, and orders have been filed or issued in this action:

Exhibit A: Complaint

Exhibit B: Praecipe for Service (April 28, 2022)

Exhibit C: Praecipe for Service (August 8, 2022)

Exhibit D: Praecipe for Service (August 23, 2022)

Exhibit E: Summons on Complaint

Exhibit F: Return of Service

Exhibit G: Notice of Failure of Service

Exhibit H: Docket Sheet

JURISDICTION

8. Removal of this action is proper under 28 U.S.C. §§ 1441(a) and (b) because this Court has diversity jurisdiction under 28 U.S.C. § 1332(a). As further explained below, there is complete diversity of citizenship and the amount in controversy exceeds \$75,000.

9. Plaintiffs allege that they are the fee simple owner of three contiguous parcels in Hocking County, Ohio. Compl., ¶ 1. Plaintiffs are domiciled in Ohio and therefore are citizens of the State of Ohio.

10. Columbia is a Delaware limited liability company registered as a foreign entity in the State of Ohio. Columbia's principal place of business is located in Houston, Texas.

11. Columbia's sole member, Columbia Pipeline Group, Inc., is a Delaware corporation with its principal place of business in Houston, Texas. Therefore, Columbia is a citizen of Delaware and Texas and not a citizen of Ohio for purposes of diversity jurisdiction under 28 U.S.C. § 1332(a).

12. Accordingly, there is complete diversity of citizenship between Plaintiffs and Columbia, the sole parties to this lawsuit.

13. The amount in controversy exceeds \$75,000, exclusive of interests and costs. On the face of the Complaint, Plaintiffs seek damages of "not less than Two Hundred and Fifty Thousand (\$250,000) and the issuance of the Declarations prayed for herein." Compl., at 11.

14. Based on the allegations in the Complaint, the amount in controversy exceeds \$75,000.

15. Accordingly, Columbia is entitled to remove this action pursuant to 28 U.S.C. §§ 1441 and 1446 because complete diversity of citizenship exists and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

PROPERTY OF REMOVAL

16. This Notice of Removal is timely filed with this Court pursuant to 28 U.S.C. § 1446(b), as it is within thirty (30) days after Columbia was served with a copy of the Summons and Complaint. *Murphy Bros. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 353–54 (1999) (“[T]he defendant's period for removal will be no less than 30 days from service....”)

17. This action was filed in a state court within the judicial district of the United States District Court for the Southern District of Ohio, Eastern Division.

18. Columbia will give written notice of this removal to Plaintiffs and will file an appropriate Notice of Filing of Notice of Removal with the Court of Common Pleas of Hocking County, Ohio, as required by 28 U.S.C. § 1446(d).

19. This Notice of Removal is signed pursuant to Federal Rule of Civil Procedure 11, as required by 28 U.S.C. § 1446(a).

ADDITIONAL CONSIDERATIONS

20. The facts and allegations in this Notice of Removal are derived from the Complaint filed in this action. Columbia does not concede the truth or accuracy of any of the factual allegations contained in the Complaint, including without limitation that it breached any of the agreements it had with Plaintiffs or that its wells and storage rights diminish the value Plaintiffs' property.

21. Columbia expressly reserves all defenses including, but not limited to, those defenses based on the statute of limitations and justiciability, and the filing of this Notice of Removal is subject to, and without waiver of, any such defenses.

22. Columbia expressly reserves the right to submit additional evidence in support of this Notice of Removal, including as may be necessary to address and refute any contentions set forth in a motion to remand.

WHEREFORE, Columbia removes this action from the Court of Common Pleas of Hocking County, Ohio, so that all further proceedings in this action be held before this Court.

Respectfully submitted,

This 13th day of September, 2022

/s/ Jerome W. Cook

Jerome W. Cook (0036835), Trial Attorney

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Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of September, 2022, I filed the foregoing document by CM/ECF, and served a copy of same by U.S. mail, postage prepaid, and electronic mail upon Plaintiffs' counsel as follows:

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/s/ Jerome W. Cook

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